

**Washington County Land Use Authority Meeting
January 14, 2014**

The Washington County Land Use Authority Meeting was held Tuesday, January 14, 2014 in the Council Chambers of the Washington County Administration Building located at 197 E. Tabernacle, St. George, UT. The meeting was convened by Chairman Doug Wilson at 1:30 p.m. He led the Pledge of Allegiance, after which, he explained meeting protocol.

Commissioners present: JoAnn Balen, Deborah Christopher, Julie Cropper, Kim Ford, Rick Jones, and Mike Stucki.

Excused: Dave Everett.

Staff present: Scott Messel, Planning & Zoning Administrator; Eric Clarke, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Doreen Bowers-Irons, Planning Secretary, Kim Hafen, County Clerk; Dean Cox, County Administrator.

I. CONDITIONAL USE PERMIT. Review request for a 35-foot tall antenna for internet service, located at 176 West Little Pony Lane in Pine Valley in a FR-1 zone. The applicants are Jim and Beverly Udell/American Wireless Inc.

Mr. Messel reported the Udell's are requesting conditional use approval for an existing 35-foot tall lattice tower located on their property in Pine Valley. The property is parcel 6087-A-10. The tower is located next to an evergreen tree of similar height that helps minimize the visual impact of the facility. There is an approximate 6' tall equipment cabinet located at the base of the tower. American Wireless Inc. submitted a location master plan as required (Ord.10-23-3). The tower will provide wireless for the Udell's, as well as other American Wireless customers in the area.

Recommendation:

Staff has reviewed the application and recommends the Planning Commission approve the Conditional Use Permit for a lattice communication tower based on the following findings:

1. The conditional use was properly noticed.
2. A communication tower is a conditional use in the FR-1 zone.
3. The tower provides a service to the residents and customers of American Wireless Inc.

The commission asked why the permit was not taken out before the tower was constructed.

Mical Terry, representing the Udell's and AWI reported they did not realize a permit was needed until they called the power company for service and was informed the County needed to inspect and clear the power. It was an oversight on their part. They assumed because there was an existing tower and service all permits were approved. He explained the need for the tower to provide service in the Pine Valley area. Currently they get service off of the Big Mountain site which does not provide adequate service for the Pine Valley area. There have been a number of residents who have contacted them for service that they were not able to adequately provide. The Udell's contacted them for service and was willing to allow the tower to be placed on their property. This tower would allow additional service to other homes in Pine Valley. The tower is near a pine tree that helps to hide the tower so it is not obtrusive in the valley.

Commissioner Balen asked if there was enough space for the "fall zone". Mr. Messel reported there is nothing in the code that requires a "fall zone". There was a discussion regarding that at the last meeting and cannot be a requirement. The building permit would require engineering to ensure the tower is safe against falling. Mr. Terry stated engineering was done. The pad the tower sets on is more than adequate to support it.

Chairman Wilson declared he was 100% for service, free market, aesthetics, etc. He would like to see the tower be a collocation tower.

A discussion regarding technical information, line of site, collocation requirements and providers of service took place. It was stated other companies would be able to collocate on the tower with some modifications to the height and if those providers have the same type of service equipment.

The commission and Mr. Terry discussed the tower being installed without the permit. Mr. Terry again asserted his apologies for the oversight. He reiterated it was an assumption because of the existing service.

Kurt Gardner stated AWI did a good job of hiding the tower. When he went up to the property he could not see the tower until he was right on the property.

Commissioner Stucki stated he had been up to Pine Valley a few times and did not see it.

A discussion regarding the findings occurred. An additional finding and condition regarding collocation on the tower was added. After which, Chairman Wilson called for a vote to approve the finding of facts and conditions.

MOTION: Chairman Wilson called for a vote to approve the recommended findings as discussed. Motion carried with all six (6) Commissioners voting in favor.

MOTION: Commissioner Stucki MOVED to approve the Conditional Use Permit request for a 35-foot tall antenna for internet service, located at 176 West Little Pony Lane in Pine Valley in a FR-1 zone. The applicants are Jim and Beverly Udell/American Wireless Inc. for a lattice communication tower based on the following findings:

- 1. The conditional use was properly noticed.**
- 2. A communication tower is a conditional use in the FR-1 zone.**
- 3. The tower provides a service to the residents and customers of American Wireless Inc.**
- 4. AWI is willing to allow collocation on the tower.**

Condition:

- 1. Other service providers shall be allowed to collocate on tower where possible.**

Commissioner Christopher SECONDED. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with six (6) Commissioners voting in favor.

II. CONDITIONAL USE PERMIT EXTENSION. Review extension of Gravel Pit operations located in Section 16, T42S, R14W, SLB&M, generally located ¼ mile east of the Washington County Landfill in the OST-20 zone. The applicants are Dee Atkin/Western Rock/Red Canyon Contractors.

Mr. Messel reported this is the 5th extension, of the conditional use permit for an existing gravel pit operation on land owned by Arrow to the Sun LLC/Dee Atkin. Western Rock will be using the site. The site is located in Section 16, T42S, R14W, SLB&M in the OST-20 zone and generally located ¼ mile east of the Washington County Landfill on Parcels 4145-B-HV, 4145-D-HV and 4145-C-HV. Activity has been minimal but the applicant would like to keep the conditional use active. There have been no issues with the project.

Recommendation:

Staff has reviewed and recommends that the Planning Commission approve the Conditional Use Permit Extension for the gravel pit, for one year based on the following findings:

1. Gravel Pits are a conditional use in the OSC (Open Space Conservation) zone.
2. The uses have been approved in previous years.
3. The site meets any applicable Washington County requirements.

Dee Atkin addressed the commission indicating there have been no changes to the project. The only change was the county requirement of the property owner having the conditional use permit as opposed to the lessee. They will be making rip wrap for the Virgin River Mall Drive project.

Mr. Atkin asked if there were any questions. There were none.

MOTION: Chairman Wilson called for a vote to approve the recommended findings. Motion carried with all six (6) Commissioners voting in favor.

Chairman Wilson then called for a motion.

Motion: Commissioner Stucki MOVED to approve the Conditional Use Permit Extension of Gravel Pit operations located in Section 16, T42S, R14W, SLB&M, generally located ¼ mile east of the Washington County Landfill in the OST-20 zone on Parcels 4145-B-HV, 4145-D-HV and 4145-C-HV. The applicants are Dee Atkin/Western Rock/Red Canyon Contractors for one year based on the following findings:

1. Gravel Pits are a conditional use in the OSC (Open Space Conservation) zone.
2. The uses have been approved in previous years.
3. The site meets any applicable Washington County requirements.

Commissioner Cropper SECONDED. Chairman Wilson called for a discussion on the motion. There being none, the motion carried with all six (6) Commissioners voting in favor.

III. CONDITIONAL USE PERMIT. Conditional Use Permit request review of a proposed telecommunication tower located on the west side of Dixie Drive at approximately 1500 South. Parcel 7516-A. Zoned A-10. Owners/applicant Orwin & Velda Gubler/IntelliSites.

Mr. Messel reported this item was tabled in the December 10, 2013 Planning Commission Meeting. InSite/IntelliSites has secured a Ground Lease Agreement with the property owner of Parcel 7516-A for a telecommunication facility. The leased area is approximately 3,600 sq. ft. of the most southern tip of an approximately 23 acre agricultural zoned parcel. The site will be fenced with a 6' high chain link fence with privacy slats. The site will include a 12'x26' prefabricated equipment building a 100' tall tower that can accommodate up to six future collocating carriers. Verizon will be collocating at the 96' level upon completion of the tower. Access to the site will be from Dixie Drive. The tower location will be approximately 37 feet from the property line of an undeveloped area that is zoned residential by St. George City. Washington County Code (Ord. 10-21-7) states that no such antenna shall be located within one hundred fifty feet (150') of a residential zone unless approved by the planning commission. This unincorporated 23 acre parcel should be annexed into St. George City, but the property owner does not wish to at this time. The applicant states in the attached letter that the site was chosen due to the fact that the facility would be situated at a higher elevation on a hill, which enables wireless communication carriers the ability to provide a substantially greater range of coverage with fewer facilities. The applicant has also stated that attempts to secure a site further north on Dixie Drive and on the property occupied by Star Nursery did not work out. There was concern expressed in the last meeting that the property notice sign may not have been in place or knocked over in the snow storm. The sign was reposted with updated information on January 2, 2014, which exceeds the noticing requirement established in Washington County Code (Ord. 10-18-5). The applicant is not required by code to contact the adjacent property owners, but has sent certified letters to

directly adjacent property owners. He showed a master plan map of existing towers submitted by the applicant.

Recommendation:

If the Planning Commission is comfortable with allowing the tower to be less than 150' from a residential zone, the Planning Commission can approve the conditional use based on the following findings:

1. The proposal meets the 25' setback requirements for the A-10 zone.
2. The application meets the applicable Washington County Codes.
3. The proposal is similar to other telecommunication facilities the planning commission has approved.
4. The location enables wireless carriers the ability to provide a substantially greater range of coverage.
5. The ability to have additional providers collocated on this site could decrease the number of such facilities needed in the area.

Debbie DePompei introduced Todd Fuson. Mr. Fuson reported on logistics of the tower and the reason for selecting this location. Because of all the devices using new technology and the 4G system the towers need to be closer together in order to provide good service. Height is important and so they chose the highest buildable point on the Gubler's property to place the tower. The tower would be on a hill that would look over the valley on both sides allowing the service providers to provide better access to their customers. He noted the tower is capable of collocating. Right now, Verizon is interested in locating on the tower. He expects that AT&T, Sprint and T-Mobile will also locate on the tower at some point.

Chairman Wilson asked if the applicants are the cell tower developers and not the cellular companies. He also asked for clarification that the tower would be for more than one cellular company. Ms. DePompei answered we are the owners of the towers they build the towers and work with the cellular companies to locate on the tower. More than one provider will be able to locate on the tower.

After some discussion regarding the tower, technology, location of the tower, and the property, Chairman Wilson asked if any one else would like to speak on this item.

Bruce Burgess stated he owns property on three sides of the subject property and the tower would devalue his property for future development. He asked why the applicants are not putting it closer to their own prime property and devalue their potential development. If the tower is to be so close to his property he would put it on his own and collect the revenue payments. He stated for the record, he would like one half of the royalties to compensate for the devaluation of his property.

Mr. Fuson reiterated the site was chosen for the highest point of the property. The tower would not work in a different location.

Mr. Burgess and Commissioner Stucki discussed the devaluation of the properties where Commissioner Stucki pointed out it is a matter of opinions and perspective whether or not the properties would be devalued. Some people might like the idea of the tower being close to ensure communication without interruption.

Ms. DePompei stated the tower meets all setbacks to the Burgess property.

A discussion on fencing and noticing occurred. The noticing concern from the last meeting was addressed and the applicant has provided pictures of the notices placed on the property. The applicants are proposing a chain link fence with privacy slats. It was discussed in the previous meeting to install a block wall but has not been required on other towers and therefore should not be imposed on this one. Ms. DePompei stated due to the topography the block wall is not feasible. They will install a chain link fence with the slats.

The commission discussed the findings and imposing the block wall requirement as opposed to the chain link being proposed. It was determined that should be the call of the person who makes the motion.

MOTION: Chairman Wilson called for a vote to approve the recommended findings. Commissioner Stucki **MOVED** to accept the recommended findings of fact. Commissioner Balen **SECONDED**. The Motion carried with all six (6) Commissioners voting in favor.

Chairman Wilson then called for a motion.

MOTION: Commissioner Stucki **MOVED** to approve the conditional use permit request of a proposed telecommunication tower located on the west side of Dixie Drive at approximately 1500 South. Parcel 7516-A. Zoned A-10. Owners/applicant Orwin & Velda Gubler/IntelliSites, for one (1) year based on the following findings:

1. The proposal meets the 25' setback requirements for the A-10 zone.
2. The application meets the applicable Washington County Codes.
3. The proposal is similar to other telecommunication facilities the planning commission has approved.
4. The location enables wireless carriers the ability to provide a substantially greater range of coverage.
5. The ability to have additional providers collocated on this site could decrease the number of such facilities needed in the area.

Commissioner Ford **SECONDED**. Chairman Wilson called for discussion on the motion. The question was raised about the fencing of the project. Commissioner Stucki stated he would not make the block wall a requirement. The motion carried with six (6) Commissioners voting in favor.

IV. STAFF DECISIONS. Decisions from the Land Use Authority Staff Meeting held on January 07, 2014.

Mr. Messel reported on the Land Use Authority Staff Meeting that was to be held on January 07, 2014, was canceled and therefore no items were reviewed.

He stated the applicant from the last meeting who wanted to rezone the property and install billboards has since withdrawn his application; therefore that item will not proceed.

V. MINUTES. Consider approval of the minutes of the regular planning commission meetings held on November 12, 2013 and December 10, 2013.

The commission reviewed the minutes of the past meetings and Chairman Wilson then called for separate motions for each set of minutes.

MOTION: Commissioner Stucki **MOVED** to approve the minutes of the November 12, 2013 meeting. Commissioner Balen **SECONDED**. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with six (6) Commissioners voting in favor.

MOTION: Commissioner Christopher **MOVED** to approve the minutes of the December 10, 2013 meeting. Commissioner Stucki **SECONDED**. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with six (6) Commissioners voting in favor.

VI. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on planning items; County initiated.

There were no items to review.

VII. COMMISSION & STAFF REPORTS. General reporting on various topics; County initiated.

There were no items to report.

Commissioner Stucki asked about the e-mail he received from Mr. Clark regarding Bradley v Payson and what that was about. Mr. Clark stated it was for information. He was going to do a presentation on that at this meeting but was not able to get the presentation together before the meeting so he sent the case information out for the commission to review regarding public clamor. A short discussion about the case ensued.

Commissioner Ford moved to adjourn the meeting at 2:27 p.m.

Doreen Bowers-Irons, Planning Secretary

Approved: 11 February 2014